

AUG 25 2006

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

TYREE J. SWINDELL,

Defendant - Appellant.

No. 05-10826

D.C. No. CR-05-00002-MCE

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of California
Morrison C. England, District Judge, Presiding

Submitted August 21, 2006**

Before: GOODWIN, REINHARDT and BEA, Circuit Judges.

Tyree J. Swindell appeals from the district court's judgment and 120-month sentence imposed following his guilty-plea conviction for possession with intent to distribute cocaine base, in violation of 21 U.S.C. § 841(a)(1).

* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

** This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Pursuant to *Anders v. California*, 386 U.S. 738 (1967), counsel for Swindell has filed a brief stating that there are no grounds for relief, and a motion to withdraw as counsel of record. Swindell has not filed a pro se supplemental brief, and the government has not filed an answering brief.

We have conducted an independent review of the record pursuant to *Penson v. Ohio*, 488 U.S. 75, 83 (1988), and we dismiss in light of the valid appeal waiver, *see United States v. Nguyen*, 235 F.3d 1179, 1182 (9th Cir. 2000) (stating that an appeal waiver is valid when it is entered into knowingly and voluntarily).

Counsel's motion to withdraw is **GRANTED**, and this appeal is **DISMISSED**.